

REMARKS/ARGUMENTS

Reconsideration and allowance of the present application based on the following remarks are respectfully requested. Claims 1, 8, 11, 15, and 17 have been amended. Support for the amendments may be found throughout the specification, for example, at page 7, paragraph 21. No new matter has been added. Claims 1-20 are pending with claims 1, 8, 11, 15 and 17 being independent.

Claims 1-20 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Claims 1-6, 11-15, 17 and 18 stand rejected under 35 U.S.C. § 102(e) as anticipated by or in the alternative under 35 U.S.C. § 103(a) as unpatentable in view of U.S. Patent 6,514,918 to Librizzi ("Librizzi"). Claim 16 stands rejected under 35 U.S.C. § 103(a) as unpatentable in view of Librizzi. Claims 1-3, 6 and 7 stand rejected under 35 U.S.C. § 103(a) as unpatentable in view of U.S. Patent Application 2003/0036498 to Queen *et al.* ("Queen"). Claim 7 stands rejected under 35 U.S.C. § 103(a) as unpatentable in view of Librizzi and further in view of Queen. Claims 1-18 have been rejected under the judicially created doctrine of double patenting in view of Application Nos. 10/840417 and 10/840418.

With respect to the rejection under 35 U.S.C. § 112, first paragraph, the specification states: "...[the] compositions may suitably contain from about 5 weight percent to about 30 weight percent water ..." at page 7, paragraph 21 of the specification. Therefore, the claims are in compliance with 35 U.S.C. § 112, first paragraph. Applicants respectfully request reconsideration and withdrawal of this rejection.

With respect to the rejections in view of Librizzi, Librizzi fails to meet the required burden under both 35 U.S.C. §§ 102(e) and 103(a). Specifically, Librizzi does not teach or suggest a liquid and readily flowable composition that comprises each element claimed. For example, Librizzi's only teaching or suggestion of the presence of water in a composition is in Examples 1-8, where the presence of water is greater than 85 wt.%. There is no other disclosure of the use of water in Librizzi and Examples 1-8 only provide disclosure and suggestion of the presence of water

in amounts greater than 85%. As such Librizzi does not suggest compositions containing less than this amount of water.

In addition, Librizzi does not solvate a solid solute to form a homogeneous composition as claimed by Applicants, and instead forms a dispersion. Discussion of these differences is provided in the specification at pages 1-4 and includes the following discussion:

As used in colloidal chemistry and as used in surfactant chemistry, solubilization is the dispersion or emulsion of an insoluble material into a liquid, such as water or a predominately aqueous system. Such a dispersion or emulsion, however, does not result in a true or intimate solution, i.e., a uniform mixture of a solute and a solvent at the molecular or ionic level. The solubilized mixture is finely dispersed to produce a visually clear emulsion having discrete particle present on the microscopic or micron level. In other words, certain surfactants, such as the above-described alkoxyated alkanolamides, have been used to finely disperse or solubilize water-insoluble materials into aqueous systems, i.e., systems having predominant amounts of water. Such systems, however, remain heterogeneous, dual or multiple phase on a microscopic level.

See Specification at page 2, paragraph 6. The Specification goes on to indicate:

As used herein to describe the present invention, and as used in general chemistry, the term solvation and its variants relate to the ability of a material (i.e., a solvent) to form a homogenous liquid solution with another substance (i.e., a solute) through molecular interactions, but excluding substantial molecular dissociation of the solute, such as the case with sodium chloride being dissolved by water. In such a homogeneous solution the solute is dissolved by solvent. In contrast, as dispersion of two noncompatible, for example, immiscible substances. Often the solubilizer reduces the interfacial tension between the immiscible substances to permit dispersion therebetween. Such dispersion does not result in a homogenous liquid solution, but merely results in a heterogeneous, often finely dispersed micro-emulsion mixture. Thus, as used herein, the degree of homogeneity for solvated compositions exceeds the degree of homogeneity present in solubilized compositions. As used herein, a homogenous composition refers to a uniform composition or true solution that does not separate into individual constituents over time at about room temperature, even when subjected to freezing and subsequent thawing.

See Specification at page 4, paragraph 13.

Such a difference can provide synergistic effects as demonstrated in Examples 15 and 16 of the specification. Finally, Librizzi requires the presence of an

anionic surfactant in specific amounts and as such does not form, teach or suggest the same compositions having the same properties as claimed by Applicants.

Similarly, with respect to the rejections in view of Queen, Queen fails to teach or suggest a solvated composition, fails to teach or suggest up to about 30% water, and fails to teach or suggest solvation of non-ionic solid solutes.

The Examiner asserts that a reference is not limited to the preferred embodiments and that Librizzi and Queen suggest compositions containing water in amounts up to about 30% by weight. The Examiner does not indicate any portion of Librizzi or Queen that suggest compositions containing water in amounts up to about 30% by weight, much less those compositions comprising the specific components of Applicant's composition. As such, a *prima facie* case of obviousness has not been established.

For at least these reasons Applicants respectfully request reconsideration and withdrawal of these rejections.


With respect to the provisional obviousness-type double patenting rejection, Applicants will address this rejection upon the indication of allowable subject matter.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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